

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

In the matter of

XXXXX

Petitioner

File No. 87602-001

v

Midwest Security Insurance Company  
Respondent

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Issued and entered  
this 25th day of July 2008  
by Ken Ross  
Commissioner

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On April 4, 2008, XXXXX ("Petitioner") filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act MCL 550.1901 *et seq.* The Commissioner accepted the request on April 11, 2008.

The Commissioner notified Midwest Security Insurance Company of the external review and requested the information used in making its adverse determination. Because this case involves medical issues, the Commissioner assigned it to an independent review organization (IRO) which provided its recommendation to the Commissioner on June 17, 2008.

**II**  
**FACTUAL BACKGROUND**

The Petitioner is covered by a group medical policy underwritten by Midwest Security that was effective on May 1, 2007. The Petitioner received medical services from July 18, 2007 until September 28, 2007. Midwest Security denied coverage for this care ruling that the services were treatment of a pre-existing condition.

The Petitioner appealed the denial through Midwest Security's internal grievance process. Midwest Security reviewed the claims but maintained its denial and issued a final adverse determination dated December 6, 2007. (A copy of the final adverse determination was provided to the Petitioner but the wrong form was sent to the Petitioner by Midwest Security. The Petitioner filed the form she was provided with the Commissioner on February 1, 2008. However, it took some time before it was determined that she had already completed the internal grievance process and was provided the external review request form. Because of the delay caused by the error on the part of Midwest Security, the Commissioner determined the Petitioner's April 4, 2008 request was timely and therefore eligible for an external review.)

### **III ISSUE**

Is Midwest Security correct in denying coverage for the Petitioner's treatment and services from xxxxx, 2007 until xxxxx, 2007?

### **IV ANALYSIS**

#### **Petitioner's Argument**

The Petitioner indicates that she was diagnosed with uterine fibroids in September 2006. She was doing fine until mid-2007 when she began having increased bleeding and pelvic pain. It is her understanding that the follow-up pelvic ultrasound in 2007 showed a new finding when compared to the 2006 ultrasound. This new finding and the new symptoms she was having prompted her physician to perform a dilation and curettage with hysteroscopy for further evaluation and treatment.

The Petitioner says she understands the various insurance policies and procedures but she has difficulty understanding how, if you have medical insurance and your existing condition begins to exhibit new symptoms, an evaluation of these symptoms would not be a covered

benefit. The Petitioner argues that her care was a covered benefit and Midwest Security should be required to pay for it.

#### Respondent's Argument

In its final adverse determination, Midwest Security says the claims for treatment of uterine fibroids were correctly denied because they were for treatment of a pre-existing condition. Midwest Security cited records that indicate the Petitioner was seen for this condition on September 8, 2006 and October 6, 2006. Midwest Security believes these dates fall within the pre-existing "look back" period of six months preceding the enrollment date. Section 10 of the policy (page 36) defines pre-existing condition:

A "pre-existing condition" shall mean any condition, disease or ailment for which You have received medical care, treatment, services, medication, diagnosis or consultation within 6 months immediately preceding Your Enrollment Date under this Policy.

Benefits under the Policy are payable for a pre-existing condition, as so defined, only after the person with such a condition has been continuously insured under the Policy for: (1) 12 consecutive months from their Enrollment Date; or (2) 18 months from their Enrollment Date if they are a Late Enrollee. Any charges relating to the pre-existing condition incurred during the 12 or 18 month period are excluded under this Policy.

Midwest Security says the Petitioner's policy (on page 22) contains a pre-existing condition limitation which provides:

The term "Covered Expenses" as used for this coverage shall be deemed not to include any of the charges which are described below:

\* \* \*

(17) Charges with respect to a pre-existing condition for which coverage was not specifically provided under the Policy.

Midwest Security argues that because the Petitioner's services were for a pre-existing condition, they are not eligible for coverage.

#### Commissioner's Analysis

There is no dispute that the Petitioner received treatment for uterine fibroids from xxxxx, 2007, through xxxxx, 2007. The question is whether the Petitioner received "medical

care, treatment, services, medication, diagnosis or consultation” for uterine fibroids within 6 months immediately preceding her enrollment date of May 1, 2007.

In order to answer this question, the Commissioner had the case file reviewed by an IRO. The IRO reviewer is board certified in obstetrics and gynecology and has been in practice for more than ten years. The IRO reviewer observed that the Petitioner was seen in June 2006 for a routine examination and reported heavy consistent clotting. An ultrasound performed on September 8, 2006 showed a somewhat enlarged uterus with multiple fibroids, which were up to 3 x 3 cm in size. The Petitioner returned to her doctor for a fibroid check on October 6, 2006. The Petitioner reported symptoms of menorrhagia and dysmenorrhea that were not interfering with her life.

The IRO reviewer explained that the Petitioner received care for increased bleeding, pain and changes on her ultrasound from xxxx 2007 to xxxxxx 2007. The Petitioner was seen in October 2006 for this condition. There was no evidence in the information provided for review that the Petitioner received any further care or treatment for her diagnosis until July 2007. The IRO reviewer concluded that the Petitioner was not treated for this condition in the six months prior to her enrollment date of May 1, 2007. Therefore, the Petitioner’s earlier treatment did not occur within the pre-existing condition look-back period.

The Commissioner is not required in all instances to accept the IRO’s recommendation. However, the IRO recommendation is afforded deference by the Commissioner; in a decision to uphold or reverse an adverse determination the Commissioner must cite “the principal reason or reasons why the Commissioner did not follow the assigned independent review organization’s recommendation.” MCL 550.1911(16)(b) The IRO’s analysis is based on extensive experience, expertise, and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case. Therefore, the Commissioner accepts the findings of the IRO that the Petitioner’s care was not treatment of a pre-existing condition.

**V  
ORDER**

The Commissioner reverses Midwest Security's December 6, 2007, final adverse determination. Midwest Security is required to provide coverage for the Petitioner's care from July 18, 2007 to September 28, 2007 within sixty days and provide the Commissioner proof of payment within seven days after payment is made.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.